

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ROTHSCHILD CONNECTED DEVICES
INNOVATIONS, LLC,

Plaintiff,

v.

ADS SECURITY, L.P.,

Defendant.

Case No. 2:15-CV-01431-JRG-RSP (Lead)

Case No. 2:15-cv-01463-JRG-RSP
(Member)

**ADS SECURITY, L.P.'S AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS TO DEFENDANT'S COMPLAINT**

Defendant ADS Security, L.P. (“**ADS**”), by and through its undersigned counsel, submits its amended answer, affirmative defenses, and counterclaims to the Complaint filed by Rothschild Connected Devices Innovations, LLC’s (“**RCDI**”), to include counterclaims against Leigh M. Rothschild (“**Mr. Rothschild**”).

ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT

1. All claims asserted by RCDI in the Complaint have been dismissed with prejudice, pursuant to the *Order of Dismissal of Defendant ADS Security, LP With Prejudice* (Dkt. No. 83).

COUNTERCLAIMS

2. ADS asserts the following counterclaims against RCDI and Mr. Rothschild.

PARTIES

3. ADS is a limited partnership organized and existing under the laws of the State of Pennsylvania and has its principal office in Nashville, Tennessee

4. Upon information and belief, RCDI is a Texas limited liability company with its principal office located at 1400 Preston Road, Suite 400, Plano, Texas 75093.

5. Upon information and belief, Mr. Rothschild is an adult individual of sound mind who resides in Florida.

6. Upon information and belief, Mr. Rothschild is the managing member of RCDI and the **sole** member of RCDI.

7. This Court has jurisdiction over these counterclaims, pursuant to 28 U.S.C. § 1331, 1338(a), and 2201.

8. RCDI and Mr. Rothschild have submitted to personal jurisdiction in this Court, by directing and participating in this case in this Court.

9. Venue is proper in this district, pursuant to 28 U.S.C. § 1391 and 1400.

RELEVANT BACKGROUND TO COUNTERCLAIMS

10. On June 5, 2017, the United States Court of Appeals for the Federal Circuit concluded that this case was an “exceptional case” pursuant to 35 U.S.C. § 285 and ADS was entitled to its attorneys’ fees and costs. *See Rothschild Connected Devices Innovations, LLC v. Guardian Prot. Servs.*, 858 F.3d 1383 (Fed. Cir. 2017); *see also Rothschild Connected Devices Innovations, LLC v. ADS Security, L.P.*, No. 2:15-cv-01431, 2017 U.S. Dist. LEXIS 185342, at *2 (E.D. Tex. Nov. 8, 2017) (stating the only possible conclusion from the Federal Circuit’s opinion is that this case is exceptional, leaving calculation of fees as the only matter to be assessed on remand).

11. On remand, this Court entered an order: (a) finding ADS’s proposed fees and costs in the amount of \$288,911.99 were reasonable; and (b) ordering RCDI to pay ADS’s fees and costs no later than thirty days from the date of the order. *ADS Security, L.P.*, 2017 U.S. Dist. LEXIS 185342, at *4–5.

12. RCDI has failed to comply with this Court’s order directing it to pay the fees and expenses incurred by ADS in this case.

13. RCDI has admitted that it has de minimis funds in its bank account(s). (Dkt. No. 108, ¶ 2.)

14. RCDI has admitted its only assets consist of three patents and one patent application currently assigned to RCDI. (Dkt. No. 108, ¶ 3.)

15. RCDI has admitted it does not currently have the ability to pay the fee award to ADS. (Dkt. No. 108, ¶ 4.)

COUNTERCLAIM I
(EXCEPTIONAL CASE AWARD AGAINST RCDI)

16. ADS incorporates by reference paragraphs 1 through 15 of these counterclaims as if set forth fully at length in this paragraph.

17. The United States Court of Appeals for the Federal Circuit has ruled this case is exceptional, within the meaning of 35 U.S.C. § 285.

18. The ruling of the United States Court of Appeals for the Federal Circuit is a final, non-appealable order.

19. This Court has ruled that, as of November 8, 2017, ADS is entitled to attorneys' fees and costs in the amount of **\$288,911.99**.

20. RCDI has failed to comply with this Court's order directing it to pay to ADS the sum of **\$288,911.99**.

21. ADS has incurred and continues to incur additional attorneys' fees and costs in this case, as a result of RCDI's actions and omissions.

22. ADS is entitled to recover the amounts already awarded by this Court plus such other and additional amounts incurred by ADS in this case as a result of RCDI's commencement of this exceptional case.

23. ADS is entitled to judgment against RCDI, pursuant to 35 U.S.C. § 285, in an amount not less than **\$288,911.89**, plus all other and additional fees and costs incurred by ADS in seeking to recover its attorneys' fees and costs in this action, plus pre- and post-judgment interest at the maximum rate permitted by law.

COUNTERCLAIM II
(EXCEPTIONAL CASE AWARD AGAINST MR. ROTHSCHILD)

24. ADS incorporates by reference paragraphs 1 through 27 of these counterclaims as if set forth fully at length in this paragraph.

25. This case qualifies as an "exceptional case," pursuant to 35 U.S.C. § 285.

26. ADS is entitled to payment of all fees and expenses incurred as a result of the filing of this case.

27. At all times relevant to these counterclaims, Mr. Rothschild was the sole member and managing member of RCDI.

28. At all times relevant to these counterclaims, Mr. Rothschild was responsible for RCDI's conduct in this case, including RCDI's conduct that made this case "exceptional" under 35 U.S.C. § 285.

29. Stated another way, Mr. Rothschild directed the actions taken by RCDI in this case, which actions caused damages to ADS.

30. At all times relevant to these counterclaims, Mr. Rothschild has been aware of all facts giving rise to the claims against him and providing the basis for his personal liability.

31. It is, therefore, equitable to hold Mr. Rothschild jointly and severally liable with RCDI for the award of attorneys' fees and costs entered at docket number 108 in this case plus all other and additional attorneys' fees and costs incurred by ADS in seeking to recover its attorneys' fees and costs.

32. ADS is entitled to judgment against Mr. Rothschild, pursuant to 35 U.S.C. § 285, in an amount not less than **\$288,911.89**, plus all other and additional fees and costs incurred by ADS in seeking to recover its attorneys' fees and costs in this action, plus pre- and post-judgment interest at the maximum rate permitted by law.

WHEREFORE, AFS demands entry of judgment:

- A. on Count I of these counterclaims, in favor of ADS Security, L.P. and against Rothschild Connected Devices Innovations, LLC, pursuant to 35 U.S.C. § 285, in an amount not less than **\$288,911.89**, plus all other and additional fees and costs incurred by ADS in seeking to recover its attorneys' fees and costs in this action, plus pre- and post-judgment interest at the maximum rate permitted by law;
- B. on Count II of these counterclaims, in favor of ADS Security, L.P. and against Leigh M. Rothschild, pursuant to 35 U.S.C. § 285, in an amount not less than **\$288,911.89**, plus all other and additional fees and costs incurred by ADS in seeking to recover its attorneys' fees and costs in this action, plus pre- and post-judgment interest at the maximum rate permitted by law; and
- C. granting such other and further relief as this Court deems just and proper.

Dated: February 8, 2019

Respectfully submitted,

/s/ Blake D. Roth
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Attorneys for ADS Security, L.P.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the above and foregoing document has been served on February 8, 2019, to all counsel of record who are deemed to have consented to electronic service via the court's CM/ECF system, pursuant to Local Rule CV-5(a)(3).

/s/ Blake D. Roth
Blake D. Roth